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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

10/06/2004

Richard L Catania Esq Scully Scott Murphy & Presser 400 Garden City Plaza Garden City, NY 11530

EXAMINER	
 THOMSON, WILLIAM D	

ART UNIT -

PAPER NUMBER

2123

DATE MAILED: 10/06/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,708	03/02/2000	Max M. Maurer	PO9-99-092(12865)	5302

TITLE OF INVENTION: INTELLIGENT WORKSTATION SIMULATION-SIMULATION AT PROTOCOL STACK LEVEL 2

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1370	\$0	\$1370	01/06/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. <u>PROSECUTION ON THE MERITS IS CLOSED</u>. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN <u>THREE MONTHS</u> FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. <u>THIS STATUTORY PERIOD CANNOT BE EXTENDED</u>. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

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If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

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If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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Mail Stop ISSUE FEE Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

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7590

10/06/2004

Richard L Catania Esq Scully Scott Murphy & Presser 400 Garden City Plaza Garden City, NY 11530

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

(Depositor's name)		
(Signature)		
(Date)		

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L	NO NO	\$1370		\$0	\$1370	01/06/2005
nonprovisional	NO	\$1370	J	20	\$1370	01/00/2003
EXAMINER		ART UNIT		CLASS-SUBCLASS]	
THOMSON, WILLIAM D		2123	3 703-022000			
Change of correspondence address or indication of "Fee Address CFR 1.363). Change of correspondence address (or Change of Correspon Address form PTO/SB/122) attached. "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Cus Number is required. 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTIPLEASE NOTE: Unless an assignee is identified below, no a recordation as set forth in 37 CFR 3.11. Completion of this form		Correspondence ation form e of a Customer E PRINTED ON Telow, no assignee of this form is NO	(1) the na or agents (2) the na registered 2 registered listed, no THE PATEN data will app	pear on the natent. If an assign	a member a 2 es of up to 7 no name is 3 nee is identified below, the	document has been filed fo
				patent): Individual C	orporation or other private g	roup entity Government
4a. The following fee(s) are Issue Fee	e enclosed:	46	Dayment of	ree(s): in the amount of the fee(s) is en		
_	small antity discount narmitte	ad)		by credit card. Form PTO-203		
Publication Fee (No small entity discount permitted) Advance Order - # of Copies			The Director is hereby authorized by charge the required fee(s), or credit any overpayment, Deposit Account Number (enclose an extra copy of this form).			
a. Applicant claims S	s (from status indicated above SMALL ENTITY status. See It is requested to apply the Iss Publication Fee (if required) cords of the United States Pate	37 CFR 1.27.	☐ b. Applie	cant is no longer claiming SMA ny) or to re-apply any previous e other than the applicant; a reg	LL ENTITY status. See 37 (CFR 1.27(g)(2).
Authorized Signature				Date		
Typed or printed name			Registration	ı No		

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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09/516,708	03/02/2000	Max M. Maurer	PO9-99-092(12865)	5302	
75	90 10/06/2004		EXAM	INER	
Richard L Catania Esq			THOMSON, V	THOMSON, WILLIAM D	
Scully Scott Murph 400 Garden City Pl			ART UNIT	PAPER NUMBER	
Garden City, NY 11530			2123		
			DATE MAILED: 10/06/2004	4	

Determination of Patent Term Extension under 35 U.S.C. 154 (b)

(application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



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Richard L Catania Esq			. THOMSON, WILLIAM D	
Scully Scott Murp 400 Garden City I			ART UNIT	PAPER NUMBER
Garden City, NY			2123	
			DATE MAILED: 10/06/200	4

Notice of Fee Increase on October 1, 2004

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after October 1, 2004, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" because some fees will increase effective October 1, 2004. See Revision of Patent Fees for Fiscal Year 2005; Final Rule, 69 Fed. Reg. 52604, 52606 (May 10, 2004).

The current fee schedule is accessible from WEB site (http://www.uspto.gov/main/howtofees.htm).

If the fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due" but not the correct amount in view of the fee increase, a "Notice of Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice of Pay Balance of Issue Fee," if the response to the Notice of Allowance is to be filed on or after October 1, 2004 (or mailed with a certificate of mailing on or after October 1, 2004), the issue fee paid should be the fee that is required at the time the fee is paid. See Manual of Patent Examining Procedure (MPEP), Section 1306 (Eighth Edition, Rev. 2, May 2004). If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously-paid issue fee should be paid. See MPEP Section 1308.01.

Effective October 1, 2004, 37 CFR 1.18 is amended by revising paragraphs (a) through (c) to read as set forth below.

Section 1.18 Patent post allowance (including issue) fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:

except a design of plant patent.	
By a small entity (Sec. 1.27(a))	\$685.00
By other than a small entity	\$1,370.00
(b) Issue fee for issuing a design patent:	
By a small entity (Sec. 1.27(a))	\$245.00
By other than a small entity	\$490.00
(c) Issue fee for issuing a plant patent:	
By a small entity (Sec. 1.27(a))	\$330.00
By other than a small entity	

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

	Application No.	Applicant(s)
	09/516,708	MAURER, MAX M.
Notice of Allowability	Examiner	Art Unit
	William D. Thomson	2123
The MAILING DATE of this communication app All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85 NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT R of the Office or upon petition by the applicant. See 37 CFR 1.313	(OR REMAINS) CLOSED in this ap) or other appropriate communication (IGHTS. This application is subject to	plication. If not included not will be mailed in due course. THIS
1. This communication is responsive to 6/16/04, 10/1/04.		
2. The allowed claim(s) is/are 1,2,5,6,8-11,14,15,16,18-22.		
3. \boxtimes The drawings filed on <u>16 June 2004</u> are accepted by the E	Examiner.	
4. Acknowledgment is made of a claim for foreign priority u a) All b) Some* c) None of the: 1. Certified copies of the priority documents have 2. Certified copies of the priority documents have 3. Copies of the certified copies of the priority documents have 1. Certified copies of the priority documents have 3. Copies of the certified copies of the priority documents have 1. Certified copies not received: Applicant has THREE MONTHS FROM THE "MAILING DATE" noted below. Failure to timely comply will result in ABANDONN THIS THREE-MONTH PERIOD IS NOT EXTENDABLE. 5. A SUBSTITUTE OATH OR DECLARATION must be submined in the submined submined in the submined submined in the submined submined submined in the submined su	e been received. e been received in Application No comments have been received in this for this communication to file a reply MENT of this application. Initted. Note the attached EXAMINER wes reason(s) why the oath or declarate the submitted. Its on's Patent Drawing Review (PTO T's Amendment / Comment or in the Comment or in the Comment of the drawithe header according to 37 CFR 1.1216 Dosit of BIOLOGICAL MATERIAL	national stage application from the complying with the requirements. 2'S AMENDMENT or NOTICE OF ation is deficient. -948) attached Office action of ings in the front (not the back) of (d). must be submitted. Note the
Attachment(s) 1. Notice of References Cited (PTO-892) 2. Notice of Draftperson's Patent Drawing Review (PTO-948) 3. Information Disclosure Statements (PTO-1449 or PTO/SB. Paper No./Mail Date 4. Examiner's Comment Regarding Requirement for Deposit of Biological Material	6. Interview Summary Paper No./Mail Da /08), 7. Examiner's Amend 8. Examiner's Statem 9. Other	ate

DETAILED ACTION AND ALLOWANCE OF AMENDED CLAIMS

- Claims 1,2,5,6,8-11,14,15,16,18-22 have been examined with 1. amendments provided herein and those provided by Applicant in their June 16th 2004 response.
- Claims 1,2,5,6,8-11,14,15,16,18-22, as amended, are allowed. 2.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ralph Hoppin on October 1st 2004.

- 4. A clean copy of the amended claims is attached herewith. The application has been amended as follows:
 - CANCEL claims 3 and 7.
- Amend claims 5,8,9 and 10 to be dependent on claim 1, instead of claim 3, per 37 C.F.R. 1.126, as follows:
 - 3 ps. The method of claim 1[3], further comprising:

maintaining independent client states for each client request submitted by the respective client workstations.

The method of claim 1[3], further comprising:

Application/ trol Number: 09/516,708

Art Unit: 2123



incorporating static instructions that emulate user actions; and formulating data to emulate the client requests to submit to the server in response to the incorporated static instructions.

dynamically loading instructions that emulate user actions; and formulating data to emulate the client requests to submit to the server in response to the dynamically loaded instructions.

The method of claim 1[3], further comprising:

receiving operator inputs at the workstations; and

formulating data to emulate the client requests to submit to the server in response to the received operator inputs.

c. Amend Claim 1 as follows:

1. A method for providing a high fidelity simulation of a client/server system including a server and intelligent client workstations, the method comprising:

simulating at level 2 of a protocol stack by formulating client requests having unique client identifiers at the level 2 of the protocol stack;

transmitting the client requests on a communications channel having routing access to the server for servicing the client requests[.];

the step of simulating at level 2 of the protocol stack further comprising:

formulating data to emulate the client requests to submit to the server;

padding the formulated data with header data that conforms to a communications protocol used by the server in receiving the client requests; and



Application otrol Number: 09/516,708

Art Unit: 2123





for each respective client request, producing at least one level 2 data frame from the padded data by inserting the unique client address into the padded data, the unique client address representing a respective one of the client workstations that submitted the respective client request.

d. Amend claim 15 as follows:

A program storage device readable by machine, tangibly embodying a program of instructions executable by the machine, when the instructions are executed on the machine [to] performs the method steps of providing a high fidelity simulation of a client/server system including a server and intelligent client workstations, the method steps comprising:

simulating at level 2 of a protocol stack by formulating client requests having unique client identifiers at the level 2 of the protocol stack;

transmitting the client requests on a communications channel having routing access to the server for servicing the client requests[.];

the step of simulating at level 2 of the protocol stack further comprising:

padding the formulated data with header data that conforms to a

formulating data to emulate the client requests to submit to the server;

communications protocol used by the server in receiving the client requests; and

for each respective client request, producing at least one level 2 data

frame from the padded data by inserting the unique client address into the added

data, the unique client address representing a respective one of the client

workstations that submitted the respective client request.





e Amend claim 22 as follows:

An apparatus for providing a high fidelity simulation of a client/server system including a server and intelligent client workstations, the apparatus comprising:

means for simulating at level 2 of a protocol stack by formulating client requests having unique client identifiers at the level 2 of the protocol stack;

means for transmitting the client requests on a communications channel having a routing access to the server for servicing the client requests[.];

means for formulating data to emulate the client requests to submit to the server;

means for padding the formulated data with header data that conforms to a communications protocol used by the server in receiving the client requests; and

means for producing at least one level 2 data frame, for each respective client request, from the padded data by inserting the unique client address into the padded data, the unique client address representing a respective one of the client workstations that submit the respective client request.

REASONS FOR ALLOWANCE

5. The following is an examiner's statement of reasons for allowance:

The prior art asserted does not expressly teach or render obvious invention as recited in the newly amended independent claims 1, 15 and 22.



Application ntrol Number: 09/516,708

Art Unit: 2123

Specifically, in the context of the claims as a whole, simulating at level 2, inclusive of the method of formulating client requests and data, identities at level 2 with padding at that level, as recited in the claims, was not uncovered. Further, no evidence was uncovered that one of ordinary skill level in the art at the time of the Applicant's invention would have motivation to modify the teachings of the asserted prior art to provide the simulation the operates at level 2, inclusive of the formulating and padding steps for the respective client requests producing the frames where this is not at the application level, as argued by Applicant in the response, was not uncovered. Though creating simulated or emulated client requests for testing servers, inclusive of scripting was taught in the prior art, the express teaching of the method by which Applicant is simulating at level 2 and formulating client requests with unique identifiers and data with padding as recited in the instant amended claims was not uncovered. Further, though it is known to pad and create IP and MAC packets, the prior art does not expressly teach the Applicant's claimed methodology, in the context of the claims as a whole. Therefore the prior art asserted does not reasonably teach or render obvious a method for providing a high fidelity simulation of a client/server system including a server and intelligent client workstations, the method comprising:

simulating at level 2 of a protocol stack by formulating client requests having unique client identifiers at the level 2 of the protocol stack;

transmitting the client requests on a communications channel having routing access to the server for servicing the client requests;

the step of simulating at level 2 of the protocol stack further comprising:

formulating data to emulate the client requests to submit to the server;

padding the formulated data with header data that conforms to a communications protocol used by the server in receiving the client requests; and

for each respective client request, producing at least one level 2 data frame from the padded data by inserting the unique client address into the padded data, the unique client address representing a respective one of the client workstations that submitted the respective client request.

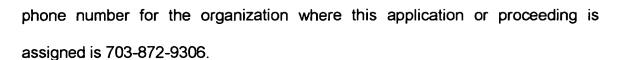
Claim 22 recites an apparatus in mean-for style language and has been interpreted in deference to 35 U.S.C. 112 6th paragraph and *In re Donaldson*.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

CONTACT INFORMATION

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William D. Thomson whose telephone number is 703-305-0022. The examiner can normally be reached on 8:30-3:30 Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 703-305-9704. The fax



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William Thomson Primary Examiner Technology Center 2100

A.U. 2123

CLEAN COPY OF AMENDED CLAIMS

 A method for providing a high fidelity simulation of a client/server system including a server and intelligent client workstations, the method comprising:

simulating at level 2 of a protocol stack by formulating client requests having unique client identifiers at the level 2 of the protocol stack;

transmitting the client requests on a communications channel having routing access to the server for servicing the client requests;

the step of simulating at level 2 of the protocol stack further comprising:

formulating data to emulate the client requests to submit to the server;

padding the formulated data with header data that conforms to a

communications protocol used by the server in receiving the client requests; and

for each respective client request, producing at least one level 2 data frame from the padded data by inserting the unique client address into the padded data, the unique client address representing a respective one of the client workstations that submitted the respective client request.

- The method of claim 1, further comprising:
 maintaining independent client states for each client request submitted by the respective client workstations.
 - 8. The method of claim 1, further comprising: incorporating static instructions that emulate user actions; and



formulating data to emulate the client requests to submit to the server in response to the incorporated static instructions.

- 9. The method of claim 1, further comprising: dynamically loading instructions that emulate user actions; and formulating data to emulate the client requests to submit to the server in response to the dynamically loaded instructions.
 - 10. The method of claim 1, further comprising: receiving operator inputs at the workstations; and

formulating data to emulate the client requests to submit to the server in response to the received operator inputs.

15. A program storage device readable by machine, tangibly embodying a program of instructions executable by the machine, when the instructions are executed on the machine performs the method steps of providing a high fidelity simulation of a client/server system including a server and intelligent client workstations, the method steps comprising:

simulating at level 2 of a protocol stack by formulating client requests having unique client identifiers at the level 2 of the protocol stack;

routing access to the server for servicing the client requests;

the step of simulating at level 2 of the protocol stack further comprising:

formulating data to emulate the client requests to submit to the server;

padding the formulated data with header data that conforms to a

communications protocol used by the server in receiving the client requests; and

ntrol Number: 09/516,708

Art Unit: 2123

for each respective client request, producing at least one level 2 data frame from the padded data by inserting the unique client address into the added data, the unique client address representing a respective one of the client workstations that submitted the respective client request.

22. An apparatus for providing a high fidelity simulation of a client/server system including a server and intelligent client workstations, the apparatus comprising:

means for simulating at level 2 of a protocol stack by formulating client requests having unique client identifiers at the level 2 of the protocol stack;

means for transmitting the client requests on a communications channel having a routing access to the server for servicing the client requests;

means for formulating data to emulate the client requests to submit to the server;

means for padding the formulated data with header data that conforms to a communications protocol used by the server in receiving the client requests; and

means for producing at least one level 2 data frame, for each respective client request, from the padded data by inserting the unique client address into the padded data, the unique client address representing a respective one of the client workstations that submit the respective client request.